

REMARKS

In the Office Action, the Examiner objected to claims 15 - 17 and 20 - 22 under 37 C.F.R. § 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. The Examiner also rejected claims 12 - 14, 18 - 19, and 23 - 31 under 35 USC § 103(a) as being unpatentable over Mukherjee (U.S. Patent No. 6,289,223) in view of Pecen (U.S. Patent No. 6,493,559). The Examiner also rejected claim 15 under 35 USC § 103(a) as being unpatentable over Mukherjee in view of Pecen and further in view of Sikand (U.S. Patent No. 5,515,421). The Examiner also rejected claims 16, 17, and 20 - 22 under 35 USC § 103(a) as being unpatentable over Mukherjee in view of Pecen and further in view of Vedel (U.S. Patent No. 5,974,308).

The Applicant has amended claims 15 - 17 and 20 - 22 to address the § 1.75(c) objections and the Applicant respectfully requests withdrawal of the Examiner's objections. The Applicant also amended claim 18 to correct an informality. The Applicant respectfully traverses the § 103(a) rejections and submits the following remarks in favor of patentability.

Claims 12 - 17

In claim 12, the Applicant recites a process of allowing direct access for individual subscribers to a digital cellular phone network with existing cell broadcast services. The process includes, among other things, forwarding the cellular broadcast message to a cell broadcast center by means of a process that applies to the cell broadcast center such that the cellular broadcast message is broadcast to subscribers within a defined area of the cell broadcast, wherein broadcasting does not define the subscribers as part of a user group.

Mukherjee teaches a process in which a multipoint SMS transmission is executed significantly as a point-to-point SMS transmission once usergroups and identifiers have been defined. *See e.g.*, column 2, lines 18 - 21 of Mukherjee. As previously mentioned, the broadcast messaging of the Applicant's claims explicitly does not define user groups prior to transmission as Mukherjee so teaches. The Examiner acknowledges that Mukherjee "does not specifically disclose wherein broadcasting does not define the subscribers as part of a user group". The Examiner states, however, that Pecen discloses

a method of receiving SMS where broadcasting does not define the subscribers as part of a user group but that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the process of Mukherjee by incorporating the teachings of Pecen. The Applicant respectfully disagrees because the two references explicitly teach away from one another. Once again, broadcasting is the opposite of transmitting messages to a predefined user group. Thus, forcing Mukherjee to broadcast would destroy that which Mukherjee teaches.

The Examiner states that the purpose of the proposed combination is for "ensuring transmitting of emergency messages to all members". The Examiner's proposal, however, is in direct contradiction to the entire purpose of Mukherjee. Mukherjee expressly states that "...there is a need for a selection mechanism so that an SMS subscriber can specify a number of other SMS subscribers to receive a given communication *without having to transmit to all possible SMS subscribers* (see column 1, lines 60 - 64 of Mukherjee)". Thus, combining Pecen with Mukherjee would defeat that which Mukherjee explicitly attempts to avoid.

Since Mukherjee cannot be combined with Pecen to teach or even reasonably suggest that which the Applicant claims, claim 12 is patentable over the combination of Mukherjee and Pecen. The Applicant, therefore, respectfully requests reconsideration and allowance of claim 12. Claims 13 - 17 depend from independent claim 12 and inherit all of the novel and non obvious features of the independent claim. Accordingly, these claims are also novel and non obvious. The Applicant, therefore, respectfully requests reconsideration and allowance of claims 13 - 17.

Claims 18 - 25

Claim 18 recites a device for allowing direct access for individual subscribers to a digital cellular phone network with existing cell broadcast services. The cellular phones of the subscribers are equipped to exchange point-to-point short messages with a short message center over the cellular phone network, whereby short messages declared cell broadcast messages are forwarded to a cell broadcast center to be broadcast to the subscribers within a defined area of the cell broadcast center. The device includes means of doing at least one of: a test, an adjustment, and a conversion of the point-to-point short

message necessary to convert the point-to-point short message into a cellular broadcast message, wherein broadcasting does not define the subscribers as part of a user group.

The Examiner rejected claim 18 generally using the same Mukherjee/Pecen rationale cited in the rejection of claim 12. Specifically, the Examiner surmises that Mukherjee does not teach broadcasting but that Pecan does and that the reason the two may be combined is for “broadcasting to all receivers...in case of an emergency where a message needs to be transmitted to all receivers”. As stated in the reasons for patentability of claim 12, Mukherjee expressly states that "...there is a need for a selection mechanism so that an SMS subscriber can specify a number of other SMS subscribers to receive a given communication *without having to transmit to all possible SMS subscribers* (column 1, lines 60 - 64 of Mukherjee)". Broadcasting is the opposite of transmitting messages to a predefined user group. Thus, Mukherjee teaches away from Pecan. The Applicant, therefore, maintains that claim 18 is patentable in view of the Mukherjee/Pecen combination.

Claims 19 - 25 depend from independent claim 18 and inherit all of the novel and non obvious features of the independent claim. Accordingly, these claims are also novel and non obvious. The Applicant, therefore, respectfully requests reconsideration and allowance of claims 19 - 25.

Claims 26- 31

In claim 26, the Applicant recites a method of providing a cellular broadcast center with a cellular broadcast message. The method includes forwarding the cellular broadcast message to a cellular broadcast center to be broadcast to the subscribers within a defined area of the cell broadcast center, wherein broadcasting does not define the subscribers as part of a user group. As mentioned in the arguments in favor of patentability of claims 12 and 18, such patentably distinguishes over the Examiner's proposed Mukherjee/Pecen combination. The Applicant, therefore, respectfully requests reconsideration and allowance of claim 26.

Claims 27 - 31 depend from independent claim 26 and inherit all of the novel and non obvious features of the independent claim. Accordingly, these claims are also novel

and non obvious. The Applicant, therefore, respectfully requests reconsideration and allowance of claims 27 - 31.

CONCLUSION

Based upon the foregoing, the Applicant believes that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

MARSH FISCHMANN & BREYFOGLE LLP

Date: February 27, 2008

By: /GREGORY T. FETTIG/
Gregory T. Fettig
Registration No. 50,843
3151 South Vaughn Way, Suite 411
Aurora, Colorado 80014
(720) 562-5509